IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE TWENTY SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE
and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL No.1183 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/02/2004 in W.P.No.11703 OF 1991 on the file of the High Court.)

Between:

1 Savithina, Hanmantha Rao,
S/o.Nookaraju,
R/o.Duvvada, Visakhapatnam.
2 Savithina Venkata Balakrishna Rao,
S/o.Nookaraju,
R/o.Duvvada,
Visakhapatnam.
3 Savithina Kondalarao,
S/o.Nookaraju,
R/o.Duvvada,
Visakhapatnam.
4 Molam Balasaraswathi,
W/o.Veer Raju,
R/o Duvvada,
Visakhapatnam.
5 Kalla Bharathi Devi,
W/o Krishna Rao,
R/o Duvvada, Visakhapatnam.
6 Meda Vijayalakshmi,
W/o Venkata Ranga Ramanuja Rao,
R/o Duvvada, Visakhapatnam.
7 Raparthi Simhachalam,
S/o Achanna, (Died),
R/o.Duvvada, Visakhapatnam.

8 Raparthi Varalakshmamma,
W/o Simhachalam, (died),
R/o.Duvvada, Visakhapatnam.

9 Raparthi Thathabbai,
S/o Achanna,
R/o.Duvvada, Visakhapatnam.
10 Raparthi Ramulu,
S/o Achanna,
R/o Duvvada,
Visakhapatnam.
11 Raparthi Venkata Rama Rao,
S/o.Simhachalam,
R/o Duvvada,
Visakhapatnam.

..... APPELLANTS

AND

1. The Spl.officer, Land Acquisition,
Steel plant, Visakhapatnam.
2. The Govt. of A.P.,
rep. by its Secretary, Industries & Commerce
(ID) Dept., Secretariat Buildings, Hyderabad.
3. Bolisetti Srimannarayana Rao,
S/o.Appalaswamy, (Died),
R/o Duvvada,
Visakhapatnam.
4 Tadichetla Kondala Rao,
S/o Appalakonda,
R/o Duvvada,
Visakhapatnam.
5 Thota Adilakshmi
W/o Govinda Rao,
R/o.Duvvada,
Visakhapatnam.
6 Pullela Rama Devi,
W/o Appalaraju,
R/o.Duvvada, Visakhapatnam.
7 Palaka Parvathi, W/o.Rama Murthy,
R/o.Duvvada, Visakhapatnam.
8 Kerini Suryakantham, W/o.Nageswara Rao,
R/o.Duvvada, Visakhapatnam.

.....RESPONDENTS

(RR 3 to 8 are not necessary parties to this appeal)

Counsel for the Appellant : Sri P.Venugopal, Advocate for
Sri G.RAMA GOPAL
Counsel for the Respondent Nos.1 & 2: Govt. Pleader for Land Acquisition
&
Sri V.Rajagopal Reddy, standing
counsel for R-1

The Court made the following :

JUDGMENT: (Per Hon'ble the Chief Justice)

Challenge was made by the appellants - petitioners to the notification issued on 12-02-1980 under the provisions of Section 4(1) of the Land Acquisition Act, 1894 (in short 'the Act') notifying the intention of the Government to acquire vast area of land including the petitioners' land for public purpose, namely railway facilities for Steel Plant at Visakhapatnam. Proceedings were taken out under the Act, which culminated in passing the award, issuance of notices under Section 12(2) of the Act and payment of compensation to them. After compensation was received by the petitioners, they chose to file writ petition questioning the very notification issued on 12-02-1980 on the ground that the land is not being used for the purpose for which it was acquired and therefore, notification has to be quashed and set aside. On miscellaneous application moved by them, interim order was obtained on 12-09-1991 directing *status quo* to be maintained including the taking over of possession pursuant to the notification. Writ petition which remained pending in the court, was dismissed on 16-02-2004 by the

order impugned in the writ appeal.

Learned counsel for the appellants vehemently contends that though the land in question was acquired and compensation was received by the appellants, appellants continued to be in possession and since land is not required by the official respondents, notification acquiring the land deserves to be quashed. He further submitted that appellants continued to be in occupation of the property and have leased out the land to the Government by various lease deeds.

We have given due consideration to submissions made at the Bar and we do not find any force in what is submitted before us that notification dated 12-02-1980 has to be quashed. The very act of appellants having accepted the amount of compensation after award was passed precluded them from filing the writ petition. Appellants are also precluded from taking advantage of the fact that they are still in occupation of the land and that the land has been leased out to the Government. As noticed above, interim order was obtained by the appellants on 12-09-1991 and thereafter, they entered into lease on 06-03-2003 with Forest Department. Having obtained interim order from the Court and having leased out the land thereafter, appellants cannot be permitted to raise a plea that since the land is in their occupation, the same is not required by the official respondents for the purpose for which it was acquired. Not only there was inordinate delay in filing the writ petition, but also the filing of writ petition by appellants is misconceived and baseless.

Writ Appeal is accordingly dismissed.

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DEVINDER GUPTA, C.J.

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C.V.RAMULU, J

22-09-2004

bsc

To

1. The Spl.officer, Land Acquisition,
   Steel plant, Visakhapatnam.

2. The Secretary, Industries & Commerce
(ID) Dept., Govt. of A.P.,
Secretariat Buildings, Hyderabad.

3. 2 CCs to Govt. Pleader for Land Acquisition, High Court buildings,
Hyderabad (OUT).

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